

ORIGINAL

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HARRISBURG
MAY 11 2001
MARY E. D'ANDREA, CLERK
Per. ~~DEPUTY CLERK~~

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JEFFERY P. MOSER,

Plaintiff,

v.

KENNETH KYLER, et al.,

Defendants.

Civil No. 1:00-CV-1846

Judge William W. Caldwell

JURY TRIAL DEMANDED

**CORRECTIONS DEFENDANTS' MOTION FOR LEAVE TO FILE BRIEF
IN SUPPORT OF MOTION TO DISMISS IN EXCESS OF THE FIFTEEN
(15) PAGE LIMIT, *NUNC PRO TUNC***

Defendants Kyler, Baney, Erhard, Yarger, Chesney and Nauroth, by and through their attorney, Shawn P. Kenny, Office of Chief Counsel, PA Department of Corrections, respectfully move this Court for leave to file their Brief in Support of Motion to Dismiss Plaintiff's Claim in excess of the fifteen (15) page limit set forth in local rule 7.8, *nunc pro tunc*, and in support thereof aver as follows:

1. This Civil Action was commenced by the filing of a complaint on October 18, 2000, wherein Plaintiff alleges violations of 42 U.S.C. §1983 arising out of the medical care he received while he was incarcerated at the State Correctional Institutions at Frackville and Huntingdon.
2. Plaintiff's complaint sets forth three (3) discrete claims against twenty-one (21) different Defendants including six (6) Correctional Defendants,

five (5) Medical Defendants and ten (10) unknown Defendants. The complaint is fourteen (14) pages, not including nineteen (19) pages of medical exhibits and over one hundred thirty-four (134) other documents. Moser's complaint with attached exhibits is one (1) inch thick.

3. The brief filed on behalf of Corrections Defendants Kyler, Baney, Erhard, Yarger, Chesney and Nauroth, contains three (3) questions presented concerning exhaustion, deliberate indifference and qualified immunity which justifies exceeding the fifteen (15) page limit set forth in local rule 7.8. The attached brief of Corrections Defendants only exceeds the limit by 9 pages.

WHEREFORE, Corrections Defendants respectfully move this Court for an order granting them permission to exceed the fifteen (15) page limit, *nunc pro tunc*.

Respectfully submitted,
PA Department of Corrections

By:



Shawn P. Kenny
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Office of Chief Counsel
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Dated: 5/10/01

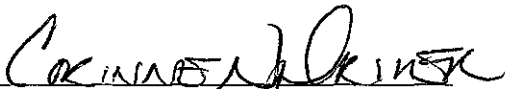
CERTIFICATE OF SERVICE

I hereby certify that I have on this date served a copy of the below-referenced document(s) upon the person and in the manner indicated below:

Service by first class mail addressed as follows:

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Dated: 5/11/01

Re: Motion for Leave to File Brief in Support of Motion in the Excess of 15 Pages
USDC-MD docket no. 1:00-CV-1846